

THIS OPINION WAS NOT WRITTEN FOR PUBLICATION

The opinion in support of the decision being entered today (1) was not written for publication in a law journal and (2) is not binding precedent of the Board.

Paper No. 12

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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Ex parte EDWARD H. STUPP and BABAR A. KHAN

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Appeal No. 96-1394  
Application No. 08/179,801<sup>1</sup>

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ON BRIEF

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Before HAIRSTON, KRASS and FLEMING, Administrative Patent Judges.

HAIRSTON, Administrative Patent Judge.

DECISION ON APPEAL

This is an appeal from the final rejection of claims 17 through 25, 27, 28, 30 and 31.

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<sup>1</sup> Application for patent filed January 11, 1994. According to the appellants, the application is a continuation of Application No. 08/098,662, filed July 28, 1993, now Patent No. 5,305,128, which is a continuation of Application No. 07/921,953, filed July 29, 1992, now abandoned, which is a continuation of Application No. 07/725,368, filed June 27, 1991, now abandoned, which is a continuation of Application No. 07/456,026, filed December 22, 1989, now abandoned.

The disclosed invention relates to an active matrix electro-optical display device that is characterized by an array of storage capacitors formed as islands of electrically conductive material beneath row electrodes of the device. Each island of electrically conductive material is in electrical contact with an adjacent pixel electrode, and a layer of dielectric material is located between each island of electrically conductive material and the overlying row electrode.

Claim 17 is illustrative of the claimed invention, and it reads as follows:

17. An active matrix electro-optic display device comprising a pair of walls each having an inner and an outer surface, at least one of which is optically transparent, the walls defining a space between them, an array of pixel electrodes, an array of switches associated with the pixel electrodes, and an array of row and column electrodes, the row electrodes and column electrodes interconnecting the pixel electrodes via the switches, the arrays arranged on the inner surface of one of the walls, a counter electrode on the inner surface of the other wall, and an electro-optic material filling the space between the walls, characterized in that the display includes an array of storage capacitors, each comprised of an island of an electrically conductive material underlying a row electrode, and in electrical contact with an adjacent pixel electrode, and a layer of a dielectric material between the island of conductive material and the overlying row electrode.

The references relied on by the examiner are:

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McKechnie et al. (McKechnie)	4,864,390	
Sept. 5, 1989		
Stupp et al. (Stupp)	5,305,128	Apr. 19,
1994		
Matsueda	63-70832	Mar. 31,
1988		
(Japanese patent application)		

Claims 17 through 25, 27, 28, 30 and 31 stand rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1 through 8 of Stupp.

Claims 17, 19, 20, 27 and 28 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Matsueda.

Claims 21, 22, 24, 25, 30 and 31 stand rejected under 35 U.S.C. § 103 as being unpatentable over Matsueda in view of McKechnie.

Reference is made to the brief and the answer for the respective positions of the appellants and the examiner.

#### OPINION

We have carefully considered the entire record before us, and we find the examiner's positions in the answer to be both reasonable and correct, and none of appellants' arguments in the brief have persuaded us of any error in the rejection. For the sake of brevity, we will not repeat the examiner's

positions (Answer, pages 3 through 8). We will instead adopt the examiner's reasoning as our own, and merely limit our decision to a response to appellants' arguments.

Appellants' response to the obviousness-type double patenting rejection is an offer to submit a terminal disclaimer to overcome the rejection (Brief, pages 7 and 8). The obviousness-type double patenting rejection of claims 17 through 25, 27, 28, 30 and 31 is sustained because such a response does not overcome the rejection.

Appellants argue that the polysilicon or amorphous silicon layer 88 (Figure 6) in Matsueda is a semiconductor, and does not become "electrically conductive" until a gate voltage is applied thereto (Brief, pages 9 through 13). The claims on appeal do not preclude the layer 88 from becoming "electrically conductive" upon the application of a bias voltage. The claims on appeal do not require an "electrically conductive" material that is "able at all times to function as a capacitor electrode during both on and off conditions," and the "electrically conductive" material is not "degeneratively doped" (Brief, page 9). More importantly, no amount of capacitance is claimed by appellants (Brief, page 11). Thus,

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the 35 U.S.C. § 102(b) rejection of claims 17, 19, 20, 27 and 28 is sustained.

The 35 U.S.C. § 103 rejection of claims 21, 22, 24, 25, 30 and 31 is sustained because Matsueda discloses "liquid crystal (LCD) devices incorporating extra capacitors formed by islands of conducting material" (Brief, page 12).

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DECISION

The decision of the examiner is affirmed.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 CFR § 1.136(a).

AFFIRMED

KENNETH W. HAIRSTON	)	
Administrative Patent Judge	)	
	)	
	)	
	)	
	)	BOARD OF PATENT
ERROL A. KRASS	)	APPEALS
Administrative Patent Judge	)	AND
	)	INTERFERENCES
	)	
	)	
	)	
MICHAEL R. FLEMING	)	
Administrative Patent Judge	)	

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Application No. 08/179,801

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**JENINE GILLIS**

Appeal No. 96-1394  
Serial No. 08/179,801

Judge HAIRSTON

Judge FLEMING

Judge KRASS

Received: 08 Sep 98

Typed: 08 Sep 98

DECISION: AFFIRMED

Send Reference(s): Yes No  
or Translation(s)

Panel Change: Yes No

3-Person Conf. Yes No

Remanded: Yes No

Brief or Heard

Group Art Unit: 2508

Index Sheet-2901 Rejection(s): \_\_\_\_\_

Acts 2: \_\_\_\_\_

Palm: \_\_\_\_\_

Mailed: Updated Monthly Disk (FOIA): \_\_\_\_\_

Updated Monthly Report: \_\_\_\_\_